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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,663	11/07/2001	James A. McCaulley	U 0069 CC/SPAP	7363

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COGNIS CORPORATION
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EXAMINER

SPEAR, JAMES M

ART UNIT PAPER NUMBER

1615

DATE MAILED: 08/12/2003

✓

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/008,663

Applicant(s)
MC CAULLEY, ET AL

Examiner
JAMES M. SPEAR

Art Unit
1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 30, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-6, 8-11, and 13-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 13-15 is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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The amendment filed May 30, 2003 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-6, and 8-10 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 11-322534-A. A translation is enclosed. The claims are rejected for the reasons set forth in Paper No. 6, mailed March 12, 2003.

Applicant's arguments filed May 30, 2003 have been fully considered but they are not persuasive. While applicants have amended the claims to show a particular astringent, the scope of the claims still read on the JP reference. The reference is directed to the formation of a ceramide synthesis promoter wherein a mixture of a microbe culture and a culture medium is utilized. The microbe culture may be any one of several cultures. A mushroom microbial-cell culture is one. The culture medium is butylene glycol. See page 9/30, sections 10 and 11. Applicants' claims reciting a mixture of butylene glycol and mushroom extract clearly read on the prior art composition. See page 10/30-13/30, sections 12-16. The active agent removed from a mushroom is clearly a mushroom extract. The reference shows

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composition base components the same as applicants', which are used to form gels, soaps, wetting agents, lubricants, etc.

Claims 11 and 13-15 are allowed.

Claims 1, 3-6, and 8-10 are rejected.

Claims 2, 7 and 12 have been canceled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Spear whose telephone number is 703 308 2457. The examiner can normally be reached on Monday thru Friday from 6:30 AM to 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308 2927. The fax phone number for the organization where this application or proceeding is assigned is 703 305 3592 or 703 308 4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1235.

James M. Spear

August 10, 2003

James M. Spear
JAMES M. SPEAR
PRIMARY EXAMINER
ART UNIT 1615